

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2422 of 2018

Idrish Ahmed, S/o. Shri Nawab Ahmed, Aged About 37 Years, R/o. Modern General Stores, Azad Chowk, Bhilai 3, District Durg, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through the Police Station Supela, District Durg, Chhattisgarh.

---- Respondent

For Applicant : Mr. B.P.Sharma, Advocate

For Respondent : Mr. Ashish Shukla, Dy. A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

17.05.2018

1. This is the third bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.539/2016 registered at Police Station- Supela, Bhilai, District Durg (C.G.) for the offence punishable under Section 420, 34 of Indian Penal Code and Section 10 of Chhattisgarh Protection of Depositors Interest Act, 2005. The first bail application was dismissed on merit on 21.03.2017 and second bail application was dismissed for want of prosecution on 16.01.2018.
2. As per the prosecution case, a report was made by the complainant Rakesh Kumar Pandey that present applicant who is Director of M/s. Sanskardhani Infra Housing Ltd., allured the complainant to invest money in their company with assurance to return the same with double within a period of six months and on such allurement, complainant under different points of time invested Rs.80,00,000/- in their company. Subsequently, certain returns to the extent of Rs.20,00,000/- were made on different

points of time, however, remaining amount of Rs.60,00,000/- as and when demanded was not returned. It is also alleged that after depositing the money certain bond papers were provided to the complainant by the applicant and eventually the entire amount was not given to the complainant. According to the prosecution, the said company was not authorised by Securities and Exchange of India (SEBI) and Reserve Bank of India to collect the amount for like nature.

3. Learned counsel for the applicant submits that subsequent to the earlier dismissal, the change of circumstances has taken place and the applicant is discharged from Section 10 of Chhattisgarh Protection of Depositors Interest Act, 2005. It is further contended that according to prosecution, the original documents i.e. bond papers have been handed over by the prosecution to the complainant and State is not prosecuting the complaint and it has been done by the complainant Rakesh Kumar Pandey, who is following the cause of the prosecution. He further submits that the complainant himself has filed an application before the Court below saying that the document which he has handed over by the prosecution has been lost. He submits that thereafter the complainant has moved an application before the Court below to lead secondary evidence and such application was not moved by the prosecution. Therefore, at this stage virtually there is no evidence against the applicant and only at the instance of the complainant on the basis of secondary evidence, prosecution is carried out. Therefore it was prayed the applicant may be released on bail.
4. Learned State counsel opposes the prayer for grant of bail and submits that during the investigation stage, the original bond

papers and other documents were handed over to the complainant by the I.O. after getting the certified attested copy of the same and in the charge sheet attested copy itself was filed. He further submits that apart from the complainant the public at large has been cheated.

5. Be that as it may, prima facie, it appears that the applicant in hand in gloves with few of the police officers and is trying to hijack the proceeding. The complainant can only be the face of the persons who have been defrauded but behind him there are many persons who had suffered to pay the amount with the allurement of high returned. Therefore, in organized manner the offence has been committed. Considering the allegation, I do not find any change of circumstances to reconsider the instant third bail application.
6. Accordingly, the third bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge